IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2706 OF 2007

Shailendra Kumar Satnarayan Thakur ..Applicant

V/s.

The State of Maharashtra ..Respondent

Mr.U.S.R.Singh with Mr.P.N.Ojha, advocate, for applicant
Mr.K.V.Saste, Assistant Public Prosecutor, for the State

CORAM : V.C.DAGA, J.

DATE : 11TH SEPTEMBER, 2007

P.C.

1. Heard learned counsel for applicant and learned Assistant Public Prosecutor. The applicant is initially charged for the offence punishable under Section 307 of the Indian Penal Code and later on, for the offence punishable under Section 302 of the said Code.

2. The learned counsel for the applicant urged

that the alleged act may have been committed by applicant but it was committed in exercise of right of his self defence since the accused was sought to be abducted by the deceased.

3. The material on record prima facie runs counter to the story of self defence sought to be made out. On the contrary, defence taken is pregnant with the admission of the act constituting an offence. The defence sought to be taken can only be tested during the course of trial.

4. The Sessions Court has also rejected bail of the applicant vide it's order dated 23rd May, 2007 observing that the weapon allegedly used in commission of offence, was also recovered at the instance of the applicant, which was concealed under a heap behind his house.

5. The investigation prima facie; reveals the involvement of the applicant.

6. In the above view of the matter, for the reasons recorded here in as well as by the Sessions Court, with which I concur, the Criminal Application is rejected. However, it is made clear that observations made here in are prima facie and shall not come in the way of the defence during trial.

(V.C.DAGA, J.)